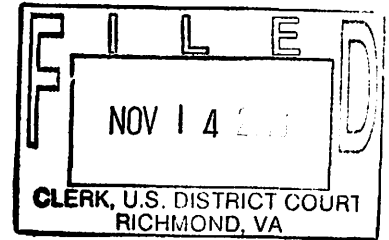


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



UNITED STATES OF AMERICA

v.

Criminal Action No. 3:98CR289

KENNETH M. MONTGOMERY, JR.

MEMORANDUM OPINION

By Memorandum Opinion and Order entered on January 11, 2001, the Court denied a 28 U.S.C. § 2255 motion filed by Kenneth Montgomery. (ECF No. 97, 98.) On July 1, 2016, the Court received another 28 U.S.C. § 2255 motion on behalf of Montgomery ("Successive § 2255 Motion," ECF No. 118). For the reasons set forth below, the Successive § 2255 Motion will be dismissed for lack of jurisdiction.

The Antiterrorism and Effective Death Penalty Act of 1996 restricted the jurisdiction of the district courts to hear second or successive applications for federal habeas corpus relief by prisoners attacking the validity of their convictions and sentences by establishing a "gatekeeping mechanism." Felker v. Turpin, 518 U.S. 651, 657 (1996) (internal quotation marks omitted). Specifically, "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider

the application." 28 U.S.C. § 2244(b)(3)(A) (emphasis added).¹ Montgomery filed the Successive § 2255 Motion prior to obtaining authorization from the Fourth Circuit. Accordingly, the Successive § 2255 Motion (ECF No. 118) will be dismissed for lack of jurisdiction. The Court will deny a certificate of appealability.

An appropriate Final Order will accompany this Memorandum Opinion.

/s/ *REP*
Robert E. Payne
Senior United States District Judge

Richmond, Virginia

Date: *November 14, 2016*

¹ Subsequent to the filing of his Successive § Motion, the Fourth Circuit twice granted Montgomery permission to file a successive § 2255 motion (ECF Nos 119, 146), and Montgomery filed successive § 2255 motions. The Court will address these filings in a separate memoranda.